

**CONSUMER PROTECTION  
IN  
KANSAS**

**2000 ANNUAL REPORT**

**of the**

**Consumer Protection  
Division**

**Office of Attorney General  
Carla J. Stovall**

**(Submitted pursuant to K.S.A. 50-628)**

May 2, 2001

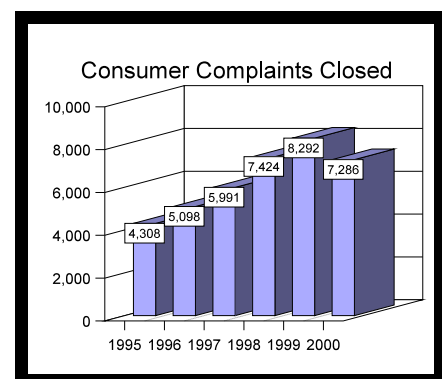
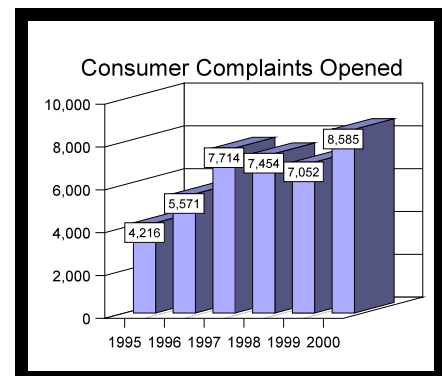
TO: The Honorable Bill Graves, Governor  
and Members of the Kansas Legislature

I am pleased to provide to you the report of the Consumer Protection/Antitrust Division of the Office of Attorney General. In 2000, the Consumer Protection/Antitrust Division received and investigated 8,585 written complaints and 2,836 written and e-mail inquiries, resulting in consumer savings of **\$2,232,017**. Our enforcement efforts in 2000, in addition to obtaining judgments and settlements for restitution, civil penalties and investigative fees, also obtained invaluable injunctive orders against businesses found in violation of the Kansas Consumer Protection Act (KCPA) and the Kansas Restraint of Trade Act.

The first chart to the right illustrates the increase in written complaints received by my Consumer Protection Division since 1995, the beginning of my administration. The 8,585 consumer complaints received in 2000 is the highest number ever received, and is more than double the number received in 1995 (4,216).

The second chart to the right illustrates the efforts and additional resources we have committed to address the increase in consumer complaints from 1995 through 2000. These additional resources, paid for with funds recovered from violators of the KCPA, have enabled us to make significant strides in our investigative efforts. I am very pleased we were able to use these additional resources to meet and serve the needs of the people of the State of Kansas.

Members of my Consumer Protection/Antitrust Division continue to travel throughout Kansas to give educational presentations on consumer issues to schools, civic groups, community organizations and industry associations. In 2000, we made 90 of these educational presentations. Approximately 5,800 consumers and business persons attended these presentations, in addition to the thousands of people who visited our Consumer Protection/Antitrust booth at the Kansas State Fair. In conjunction with our educational efforts, we continue to publish and distribute brochures on a wide variety of consumer topics. We also maintain a Consumer Protection/Antitrust website to provide online assistance to consumers. As a result of these educational efforts, I believe more consumers are less likely to fall victim to unscrupulous business practices and more businesses have been made aware of the requirements of the KCPA so they can avoid unintentionally violating the Act.



In addition to the above, we participate in consumer protection efforts on a national level through active cooperation with the National Association of Attorneys General (NAAG) and the National Association of Consumer Protection Investigators. Such cooperation is particularly beneficial in combating deceptive, unconscionable, and anti-competitive business practices by out-of-state businesses. In 2000, we recovered more than two hundred thousand dollars in penalties and fees as a direct result of NAAG multi-state working group enforcement efforts.

It is a top priority of my office to protect Kansas consumers from deceptive, unconscionable, and anti-competitive business practices through a combination of firm, yet fair, enforcement of consumer and antitrust laws and effective consumer education efforts. I continue to propose legislation to strengthen the KCPA in order to better protect our citizens and to more effectively penalize those who prey on Kansans.

If my staff or I may be of service to you or your constituents, or if we can answer any questions regarding consumer protection or antitrust in Kansas, please feel free to contact me.

Very truly yours,

Carla J. Stovall  
Attorney General

CJS:CSR

**OFFICE OF THE ATTORNEY GENERAL  
STATE OF KANSAS**

**CARLA J. STOVALL  
ATTORNEY GENERAL**

**2000 CONSUMER PROTECTION/ANTITRUST STAFF**

C. Steven Rarrick	Deputy Attorney General
Kristy L. Hiebert	Assistant Attorney General
James J. Welch	Assistant Attorney General
Gail E. Bright	Assistant Attorney General
Frances R. Brunner	Assistant Attorney General
Rex G. Beasley	Assistant Attorney General
Terry D. Hamblin	Assistant Attorney General
Teresa A. Salts	Special Agent Supervisor
Amy E. Elliott	Special Agent
Michele R. Welch	Special Agent
Lori E. Denk	Special Agent
Joseph E. Trawicki	Special Agent
Tiffanie A. Frisby	Special Agent
Angelia J. Crawford	Special Agent
J. Michael Enzbrenner	Special Agent
Judy Jenkins	Special Agent
* Carole A. Walton	Special Agent
Deborah Johnson	Legal Assistant
Linda Gifford	Secretary
Connie Ullman	Secretary
Sheila Meneses	Secretary
* Donna Wells	Secretary
Angela Kriley	Secretary-Part time
* Doris Scott	Secretary-Part time
Amy Kramer	Law Clerk
* David Blalock	Law Clerk
* Served a portion of 2000. No longer with the Consumer Protection Division.	

## CATEGORIES OF NEW COMPLAINTS

<b>Complaints Filed:</b>	<b>8585</b>
<b>Complaints Closed:</b>	<b>7286</b>
<b>Written Inquiries:</b>	<b>2386</b>
<b>Total Annual Savings:</b>	<b>\$2,232,017</b>

<b>Category</b>	<b>Complaints Received</b>	<b>Percent of Total</b>
Advertising (general)	71	0.83%
Antitrust	7	0.08%
Appliances	52	0.61%
Assistive Device Lemon Law	3	0.03%
Auto	781	9.10%
Boats, Boating Equipment, Repairs, etc.	7	0.08%
Book, Record, & Tape Clubs	27	0.31%
Business Opportunity Services	32	0.37%
Cable Television	17	0.20%
Campgrounds	0	0.00%
Cemeteries	14	0.16%
Charitable Organizations	133	1.55%
Clothing	15	0.17%
Collectibles/Antiques	12	0.14%
Collection	199	2.32%
Computer - Internet Gambling	3	0.03%
Computer - Internet Sales	208	2.42%
Computer Online Services	70	0.82%
Computers	129	1.50%
Contests/Sweepstakes	301	3.51%
Credit	448	5.22%
Credit Reporting Agencies	95	1.11%
Discount Buying Clubs	108	1.26%
Door-to-Door Sales	68	0.79%
Education	12	0.14%
Employment Services	50	0.58%
Energy Savings Devices	0	0.00%
Failure to Furnish Merchandise (other than mail order)	4	0.05%
Farm Implements/Equipment	25	0.29%
Faxes Unsolicited	29	0.34%
Fire, Heat & Smoke Alarms	0	0.00%
Floor Coverings (carpet, etc.)	19	0.22%

Food Products	22	0.26%
Funeral Homes and Plans	6	0.07%
Furniture	55	0.64%
Gasohol & Stills	0	0.00%
Gasoline Pricing and Contents	7	0.08%
Health Services (doctors, dentists, hospitals, etc.)	175	2.04%
Health Spas & Weight Salons	84	0.98%
Hearing Aids	9	0.10%
Heating & Air Conditioning	19	0.22%
Home Construction	16	0.19%
Home Improvement	205	2.39%
Invoice & Billing Schemes (noncredit code)	33	0.38%
Jewelry	11	0.13%
Land Resale Companies	8	0.09%
Loan Finders	1156	13.47%
Magazine Subscriptions	101	1.18%
Mail Order	473	5.51%
Miscellaneous	2	0.02%
Medical Equipment/Devices	5	0.06%
Mobile Home Parks	1	0.01%
Mobile Homes & Manufactured Homes	44	0.51%
Mortgage Escrow Problems	1	0.01%
Mortgages	80	0.93%
Motorcycles & Bicycles	9	0.10%
Moving & Storage	63	0.73%
Multi-level & Pyramid Distributorship Co.	161	1.88%
Musical Instruments, Lessons, etc.	3	0.03%
Negative Selection	10	0.12%
Nurseries, Lawn, Gardening and Landscape Service & Supplies	27	0.31%
Nursing Homes	5	0.06%
Office Equipment & Supplies	13	0.15%
Pest Control	6	0.07%
Pets/Animals	20	0.23%
Photo Studios, Equipment & Services	19	0.22%
Privacy Issues	8	0.09%
Real Estate (houses)	12	0.14%
Real Estate (other than houses)	2	0.02%
Rebates	24	0.28%
Recovery Companies	0	0.00%
Referral Selling	2	0.02%
Satellite Systems	69	0.80%
Scanning Equipment	16	0.19%
Securities & Investments (other than stocks & bonds)	17	0.20%

Security Systems and Services	45	0.52%
Services (general)	869	10.12%
Services (professional)	9	0.10%
Sewing Machines	7	0.08%
Sporting Goods	17	0.20%
Steel Buildings	8	0.09%
Stereo Equipment	8	0.09%
Telephone - 800#s, 900#s and International Calls	125	1.46%
Telephone - Cellular Phones and Pager Services	189	2.20%
Telephone - Cramming	38	0.44%
Telephone - Slamming	178	2.07%
Telephone - Prepaid Phone Cards	14	0.16%
Telephone Service and Long Distance Carriers	444	5.17%
Telephone Solicitations	200	2.33%
Televisions and VCR's	14	0.16%
Timeshare Sales	14	0.16%
Tobacco Sales	0	0.00%
Toys	2	0.02%
Trade & Correspondence Schools	36	0.42%
Travel	201	2.34%
Unauthorized Practice of Law	22	0.26%
Vending Machines	9	0.10%
Warranty Problems (other than automobiles)	145	1.69%
Water Softeners, Conditions, Purifiers, etc.	10	0.12%
Work-at-Home Schemes	43	0.50%
<b>TOTAL CASES OPENED</b>	<b>8585</b>	<b>100.0%</b>

## 2000 DISPOSITION OF CLOSED COMPLAINTS

	<b>Complaints Closed</b>	<b>Percent of Total</b>
Inquiry or Information Only	385	5.28%
Referred to Private Attorney	368	5.05%
Referred to County/District Attorney	15	0.21%
Referred to Other Attorney General	238	3.27%
Referred to Other Kansas Agency	45	0.62%
Referred to Small Claims Court	100	1.37%
Referred to Federal Agency (FTC, Post Office, etc.)	73	1.00%
Money Refunded/Contract Cancelled	2814	38.62%
Merchandise Delivered to Consumer	91	1.25%
Repaired/Replaced Product	125	1.72%
Mediation Only - No Savings	626	8.59%
No Reply from Complainant	544	7.47%
Unable to Locate Respondent	134	1.84%
Practice Complained of Discontinued	176	2.42%
Respondent Out of Business	98	1.35%
No Basis for Complaint	242	3.32%
Insufficient Evidence to Prove Violation	90	1.24%
Complaint Withdrawn	99	1.36%
Unable to Satisfy Complainant - No Further Action	6	0.08%
Other	13	0.18%
No Jurisdiction under KCPA	297	4.08%
Lawsuit Complaint Files		
Respondent Enjoined	9	0.12%
Respondent Enjoined/Violations Found	1	0.01%
Consent Judgment	542	7.44%
Voluntary Compliance Agreement	36	0.49%
Default Judgment	114	1.56%
Defendant Filed Bankruptcy	0	0.00%
Dismissed	5	0.07%
<b>TOTAL CASES CLOSED</b>	<b>7286</b>	<b>100.00%</b>



## **SUMMARY OF 2000**

### **CONSUMER PROTECTION ENFORCEMENT ACTION**

#### ***In the Matter of American Express Publishing Corporation***

The Attorney General, as part of a settlement with 47 other states, entered into an Assurance of Voluntary Compliance on September 7, 2000, with this company for violations of the KCPA by using deceptive and misleading sweepstakes tactics to entice customers into purchasing magazines, books and related products. Kansas and the other states each received \$3,488.38 in investigative fees.

#### ***State ex rel. v. Appliance Care, Inc., and All Principals, Agents, and Employees***

On May 24, 2000, the Attorney General entered into a Consent Judgment with this supplier for deceptive practices relating to appliance warranties sold by the company. The Defendants failed to disclose to consumers that the number of service providers who would accept reimbursement from Appliance Care, Inc., was limited, and that several service providers demanded payment up front from consumers because of Appliance Care's failure to pay them in a timely manner. Defendants failed to pay for repairs and/or replacements of consumers' appliances under the terms of the contract, and failed to reimburse consumers who were forced to pay the bills. Defendants mailed a notice to consumers that purportedly bound consumers to a new contract, with a one-year term, even though consumers did not affirmatively agree to accept the new contract or its terms. Defendants also routinely switched consumers to a very different "new contract" before the expiration of their original contract term. The Defendants agreed to refrain from future violations, agreed to cancel contracts beyond the initial 12 month period at the request of the consumer, pay \$2,145 in restitution to consumers who had filed complaints, \$2,000 to restitution for consumers who filed complaints within 12 months of the Consent Judgment, pay future restitution, and pay \$8,000 in civil penalties and investigative fees.

#### ***In the Matter of Baysinger Police Supply, Inc.***

The Attorney General entered into an Assurance of Voluntary Compliance on August 17, 2000, with Baysinger Police Supply, Inc., for violations of the KCPA by failing to provide consumers with a three-day right-to-cancel in the sale of cellular phones and services. The Defendant agreed to refrain from future violations, provide restitution, and pay \$1,000 in civil penalties and investigative fees.

#### ***State ex rel. v. John Breduick***

On February 28, 2000, the Attorney General entered into a Consent Judgment with this supplier for failing to deliver products and services to a consumer after accepting payment. In the Consent Judgment, the Defendant was enjoined from further violations and agreed to pay \$460 in penalties and \$40 in investigative fees.

#### ***State ex rel. v. Melvin H. Claphan, Individually, and d/b/a M & W Termite and Pest Control***

The Attorney General filed a lawsuit on January 27, 2000, against this company in Hutchinson, Kansas, for violations of the KCPA, including making representations that he was

licensed to apply pesticides when he was not, and representing to consumers that the chemicals he applied to their homes were approved for the treatment of termites when they were not. The case is pending.

***State ex rel. v. CNS Global International, Inc. and Richard Somers, Individually and d/b/a CNS Global International, Inc.***

The Attorney General filed a lawsuit on March 31, 2000, in Shawnee County, Kansas, District Court, against this company and individual out of Philadelphia, Pennsylvania, for committing deceptive acts and practices in the sale of a business opportunity to a Kansas consumer. The Attorney General is seeking injunctive relief, consumer restitution in the amount of \$10,545, and civil penalties in the amount of \$65,000, plus investigative fees. The Attorney General's motion for default judgment or in the alternative for summary judgment is pending before the Court.

***State ex rel. v. Collingwood Grain, Inc.***

On August 21, 2000, the Attorney General entered into a Consent Judgment with Collingwood Grain, Inc., for violations of the KCPA related to scale ticket alterations, manipulation of the elevator's scale by using an employee's body weight to increase the weight of some feed and liquid fertilizer sales, and over-dilution of fertilizer by replacing a portion of the liquid fertilizer with water and charging customers as if the water was fertilizer. The Defendant agreed to be enjoined from future violations and paid \$224,976 in consumer restitution and \$325,120 in civil penalties and investigative fees.

***State ex rel. v. Commonwealth Bank Card Protection, Inc.***

The Attorney General filed a lawsuit on April 10, 2000, against this company out of Virginia Beach, Virginia, for violations of the KCPA in its sales of credit card protection services. The court entered a Default Judgment enjoining the company from future violations, providing restitution to consumers who had complained, and awarded \$2,000 in civil penalties and \$2,000 in investigative fees.

***State ex rel. v. The Computer Shop and Branden W. Slade, Individually, and d/b/a the Computer Shop***

The Attorney General filed a lawsuit on January 27, 2000, against this company and individual out of Manhattan, Kansas, for deceptive and unconscionable acts and practices in the sale of computer products and internet services. Defendants entered into a Consent Judgment with the Attorney General on June 2, 2000, and agreed to be enjoined from doing business in Kansas, to pay \$9,508.55 in restitution to consumers, plus restitution to consumers entering complaints within 180 days of the Consent Judgment, and \$500 in investigative fees.

***State ex rel. v. Wade Cook Financial Corporation, a Nevada Corporation; and Wade Cook Seminars, Inc., a Nevada Corporation***

The Attorney General entered into a Consent Judgment on December 29, 2000, with these companies located in Seattle, Washington, for violations of the KCPA in the sale of "get rich quick" materials which failed to provide disclosures or contained misrepresentations as to the success of the investment strategies being marketed. Thirteen other states and the FTC also obtained consent decrees with Defendants, and Defendants agreed to pay the states \$400,000 of which Kansas is to

receive \$11,636 in investigative fees. Defendants agreed to be permanently enjoined from violating the KCPA and to make specific disclosures in future materials and presentations.

***State ex rel. v. Country General, Inc.***

The Attorney General entered into a Consent Judgment on July 27, 2000, with this company for scanning violations. The Defendant agreed to be enjoined from future violations and paid \$20,000 in civil penalties and \$20,000 in investigative fees.

***State ex rel. v. Data Vision Computer Video, Inc.***

The Attorney General filed a lawsuit on April 3, 2000, against this company out of New York, New York, for deceptive and unconscionable acts and practices in the mail order sale of a computer to a Kansas consumer. The case was settled when the Defendant agreed to pay \$592.35 in restitution to the consumer.

***State ex rel. v. Emily Water & Beverage Co., Inc., and Robert Ferrara, Individually***

The Attorney General filed suit against these Defendants on August 16, 1999. The individual Defendant Robert Ferrara has a long history of selling business opportunities in violation of the FTC Franchise Rule. He was convicted on federal fraud charges related to a business opportunity scheme in the 1970's and permanently enjoined from violating the FTC Franchise Rule in the 1980's. Our complaint alleged deceptive and unconscionable acts in the manner in which the Defendants sold a bottled water distributing franchise to a Kansas consumer. On February 7, 2000, the Federal Trade Commission filed suit against Emily Water & Beverage Company, Inc., and Mr. Ferrara in the United States District Court for the Western District of Missouri based in part upon the underlying transactions and occurrences involving our Kansas consumer. Accordingly, the Attorney General has dismissed the state court proceedings without prejudice pending resolution of the federal litigation.

***State ex rel. v. Abolfazl Fakhari, Individually, d/b/a Best Buy Imports Auto Sales, and Asghar Javadi, Individually, d/b/a Best Buy Imports Auto Sales***

The Attorney General filed a lawsuit on October 21, 1999, against this Missouri-based automobile dealership for failing to disclose that it was a dealership as required by the KCPA, limiting the implied warranty of merchantability by selling the vehicle "as is - no warranty," and failing to provide a three-day right-to-cancel for selling the vehicle away from the ordinary place of business. The lawsuit is pending.

***State ex rel. v. Feist Long Distance Service, Inc., and Advanced Communications Group, Inc.***

The Attorney General entered into a Consent Judgment May 4, 2000, with these companies located in Kansas and Missouri, respectively, for violations of the KCPA related to slamming of consumer local or long distance telephone service. In the Consent Judgment, the Defendant agreed to be enjoined from future violations and to pay restitution to consumers and \$37,500 in civil penalties and \$37,500 in investigative fees.

***State ex rel. v. First Credit Alliance, Inc.***

The Attorney General entered into a Consent Judgment on April 25, 2000, with First Credit Alliance, located in Las Vegas, Nevada, for violations of the KCPA and the Credit Services

Organization Act. In the Consent Judgment, the Defendant agreed to be enjoined from future violations, and pay restitution to complaining consumers, \$1,250 in civil penalties, and \$1,250 in investigative fees.

***State ex rel. v. Florida Travel Network, Inc., Crown Plaza Resorts, L.C. d/b/a Imperial Majesty Cruise Lines, Vance L. Vogel and James M. Herron, Sr.***

The Attorney General entered into a Consent Judgment February 8, 2000, with these companies and individuals located in Treasure Island, Florida, for committing deceptive acts and practices under the KCPA and violations of the Kansas Telephone Solicitation Act, the Kansas Telemarketing Fraud Act, and the Kansas Prize Notification Act. In the Consent Judgment, the Defendants agreed to be enjoined from future violations, and to pay restitution to consumers, \$25,000 in civil penalties, and \$5,000 in investigative fees.

***In the Matter of Debra A. Flowers d/b/a the Beanie Broker***

The Attorney General entered into an Assurance of Voluntary Compliance on March 31, 2000, with Debra A. Flowers of Buhler, Kansas, for deceptive and unconscionable acts and practices violations of the KCPA. The Defendant agreed to refrain from future violations, and pay \$3,506.75 and deliver certain in-kind products in restitution to consumers, \$500 in civil penalties and \$500 in investigative fees.

***State ex rel. v. Forrest (Bud) Foster, Individually, and d/b/a Bud Foster Enterprises, and Kristian Kane, Individually, and d/b/a Bud Foster Enterprises, and Carlson Auction Service, Inc.***

The Attorney General filed a lawsuit on July 13, 2000, against this company for violations of the KCPA. This automobile dealership failed to deliver titles to vehicles purchased by consumers. The lawsuit is pending.

***State ex rel. v. Gulf Industries, Inc.***

The Attorney General entered into a Consent Judgment July 28, 2000, with this company located in Torrance, California, for violations of the KCPA during its solicitation and sale of advertising and promotional signs to small businesses. In the Consent Judgment, the Defendant agreed to be enjoined from future violations, and pay restitution to consumers who filed complaints, \$10,000 in civil penalties, and \$10,000 in investigative fees.

***State ex rel. v. Integrated Capital Services, Inc., d/b/a National Student Financial Aid***

The Attorney General entered into a Consent Judgment August 15, 2000, with this company located in Carson City, Nevada, for violations of the KCPA and the Credit Services Organization Act relative to its solicitations and sales of scholarship-finding services. In the Consent Judgment, the Defendant agreed to be enjoined from future violations, and pay restitution to complaining consumers, \$5,000 in civil penalties, and \$5,000 in investigative fees.

***State ex rel. v. The Internet Yellow Pages, Inc., and Michele Erard-Coupe, Individually***

The Attorney General filed suit against these Defendants on July 19, 1999, for telemarketing fraud, deception and failure to comply with a subpoena. The company and individual entered into a Consent Judgment June 15, 2000. The Defendants agreed to be enjoined from doing business in Kansas, and pay \$1,500 in restitution to consumers, \$2,500 in civil penalties, and \$2,500 in investigative fees.

***State ex rel. v. Patrick Kilgore and Airfax Systems, Inc.***

The Attorney General filed a lawsuit on September 8, 2000, against this business operating out of Liberty, Missouri, for violations of the KCPA during its door-to-door solicitations and sales (including referral sales practices) of vacuum sweepers. The lawsuit is pending.

***State ex rel. v. Kohl's Department Stores Inc., a Wisconsin Corporation***

The Attorney General and the Sedgwick County District Attorney entered into a Consent Judgment on December 19, 2000, with Kohl's, a Wisconsin corporation, for deceptive price reference advertising practices in violation of the KCPA. In the Consent Judgment, the Defendant agreed to be enjoined from future violations, and pay \$200,000 in civil penalties and fees.

***State ex rel. v. Dan Martinez d/b/a Insurance Claims Consultants, Inc.***

The Attorney General filed a lawsuit against Dan Martinez d/b/a Insurance Claims Consultants, Inc., a Wichita, Kansas, individual, on January 3, 1997, alleging the unauthorized practice of law and deceptive and unconscionable business practices. The Defendant had no legal training and was not licensed to practice law, but provided legal advice to individuals in the areas of workers' compensation, personal injury and bankruptcy. The Defendant admitted providing advice and writing demand letters for more than two hundred (200) clients. A jury trial was conducted in September 1997, and the jury returned a verdict for the State on two of four counts of violations of the deceptive acts and practices section of the KCPA. In December 1997, the Court returned a verdict for the State on the remaining issues of the unauthorized practice of law and unconscionable acts and practices. As part of the verdict, the Court found the Defendant to be practicing law without a license, enjoined the Defendant from that activity in the future, and assessed civil penalties in the amount of \$115,500. Defendant appealed and the case to the Kansas Court of Appeals in December 1999. The Court of Appeals upheld the judgment of the District Court in an opinion published on February 11, 2000, in *State ex rel. Stovall v. Martinez*, 27 Kan App.2d. 9 (2000).

***State ex rel. v. Michael P. Mason d/b/a Budget Paving***

The Attorney General filed a lawsuit on January 18, 2000, against this man operating out of Hutchinson, Kansas, for violations of the KCPA during his door-to-door solicitation and sales of asphalt paving services. The case is pending.

***State ex rel. v. John Mesker, John Mesker, Jr. and Patrick Mesker, d/b/a Rite Way Paving***

The Attorney General filed a lawsuit on January 19, 2000, against this company out of Independence, Missouri, for violations of the KCPA during its door-to-door solicitation and sale of asphalt paving services. The court entered a Default Judgment against the Defendants on July 11, 2000, enjoining them from future violations, and requiring payment of \$19,845 in restitution to

consumers, \$200,000 in civil penalties and enhanced civil penalties (violations against the elderly), and \$5,000 in investigative fees.

***In the Matter of Mortgage Investors Corporation d/b/a Amerigroup Mortgage Corporation***

The Attorney General entered into an Assurance of Voluntary Compliance with this company on October 4, 2000, for telemarketing violations. The company agreed to refrain from further violations and to pay \$2,500 in penalties and \$2,500 in investigative fees.

***State ex rel. v. Larry R. Hensley, d/b/a Cash Free Grants***

The Attorney General filed a lawsuit on December 14, 1999, against this individual, based in Lorain, Ohio, who was promising consumers cash-free grants which did not need to be repaid. The Defendant failed to comply with any requirements of the credit services organizations portion of the KCPA. The court entered Default Judgment against Defendant on March 6, 2000, enjoining Defendant from future violations and requiring payment of restitution to injured consumers, \$160,000 in civil penalties and \$5,000 investigative fees.

***State ex rel. v. National Credit Card Security Center***

The Attorney General entered filed a Petition to Enforce a Settlement on September 15, 2000, with this company located in Toronto, Ontario, Canada, for violations of the KCPA in its solicitations and sales of credit card protection services. In the Settlement, which was approved by the Court on November 7, 2000, the Defendant agreed to be enjoined from future violations, and pay restitution to injured consumers, \$2,500 in civil penalties, and \$2,500 in investigative fees.

***State ex rel. v. Jeffrey D. Lyon And Quest Capital Management, Inc., d/b/a National Homebuyers Alliance***

The Attorney General filed a lawsuit on May 8, 2000, against this Overland Park, Kansas, company for violations of the KCPA and the Credit Services Organization Act, as well as the federal Credit Repair Organizations Act. The company entered into a Consent Judgment on September 21, 2000, and agreed to be enjoined from future violations, and pay restitution to consumers (amount to be determined by the court), and \$25,000 in civil penalties and investigative fees.

***State ex rel. v. National Travel Services, Inc., Plaza Resorts, Inc., d/b/a Ramada Plaza Resorts, Daniel Lambert, Individually, and James Verillo, Individually***

The Attorney General filed a lawsuit against these Defendants on July 13, 1999, for deceptive and unconscionable acts and practices for the manner in which these Defendants marketed and sold travel services. This action is part of a 17-state multistate group effort through the National Association of Attorneys General (NAAG). On January 14, 2000, a Consent Judgment was reached in which the Defendants agreed to be enjoined from future violations and to pay restitution to consumers for full or partial refunds. Each state participating received \$35,000 in civil penalties and investigative fees/expenses.

***State ex rel. v. Nationwide Gourmet, Inc., d/b/a Nationwide Gourmet Meat***

The Attorney General filed a lawsuit on February 2, 2000, against this company out of Longview, Texas for violations of the KCPA and the Food Sales & Advertising Practices Act during door-to-door solicitations and sales of meat products to Kansas consumers. The court entered

Default Judgment against the company on April 11, 2000, enjoining the company from future violations, and ordering payment of \$40,000 in civil penalties and \$5,000 in investigative fees.

***State ex rel. v. New Beginning Credit Association, Inc.***

The Attorney General filed a lawsuit on July 13, 2000, against this company out of Nashville, Tennessee, for violations of the KCPA and the Credit Services Organization Act. The case is pending.

***State ex rel. v. New River Subscription Services, Inc.***

The Attorney General filed a lawsuit on January 18, 2000, against this company out of Christianburg, Virginia, for violations of the KCPA during its door-to-door solicitations and sales of magazine subscriptions. The company entered into a Consent Judgment on March 6, 2000, agreeing to be enjoined from future violations, and pay restitution to complaining consumers, \$7,500 in civil penalties, and \$7,500 in investigative fees.

***State ex rel. v. NW Lad Co. d/b/a Value Vision, and Donavon Segraves, Individually and D/b/a Direct Communication International, Value Vision, Inc., and Satellite Cable Systems, Inc.,***

The Attorney General filed a lawsuit against this Kansas company in Shawnee County District Court on May 14, 1997, for deceptive and unconscionable acts and practices relating to the sale of home satellite systems. The Attorney General alleged the Defendant, through its sales representatives, made numerous misrepresentations during sales presentations. In addition, the Defendant violated the three-day right-to-cancel provisions of the KCPA. On October 21, 1999, Satellite Cable Systems, Inc., entered into Consent Judgment agreeing to be enjoined from further violations, and to pay \$250 in civil penalties and \$250 in investigative fees. The Attorney General utilized the “FTC Holder Rule” against the financing companies to release the consumers from their contracts on satellite systems that did not work. On February 1, 2000, a Default Judgment was entered against remaining Defendants in the amount of \$1,740,000 in civil penalties, \$3,000 in investigative fees, and \$229,527.20 in restitution.

***State ex rel. v. Garrett J. Ogden d/b/a the Stone Company, d/b/a Ogden Construction Company***

The Attorney General filed a lawsuit on May 17, 2000, against Garrett J. Ogden, individually, and his various companies, including the Stone Companies, Inc., alleging violations of the KCPA. The lawsuit alleges Ogden accepted money from consumers for home improvement and landscaping property or services, then failed to provide the property or services. The Attorney General filed a Motion for Summary Judgment on December 29, 2000.

***State ex rel. v. Leonard G. Potillo III d/b/a Corporate Financial***

The Attorney General entered into a Consent Judgment August 15, 2000, with Leonard G. Potillo III d/b/a Corporate Financial out of Manhattan, Kansas, for violations of the KCPA and the Credit Services Organizations Act. In the Consent Judgment, the Defendant agreed to be enjoined from future violations, and pay restitution to consumers who file complaints, \$1,500 in civil penalties, and \$1,500 in investigative fees.

***State ex rel. v. Premier Check Systems, Inc.***

The Attorney General entered into a Consent Judgment on February 15, 2000, with this company located in Arlington, Texas, for violations of the KCPA during its door-to-door solicitations and sales to small Kansas businesses of check-collection services. In the Consent Judgment, the Defendant agreed to be enjoined from future violations, and pay restitution to complaining consumers, \$1,250 in civil penalties, and \$1,250 in investigative fees.

***State ex rel. v. Publishers Clearing House d/b/a PCH***

The Attorney General filed a lawsuit on January 24, 2000, against this New York-based sweepstakes company for violations of the KCPA. The lawsuit alleges the company uses deceptive and unconscionable business practices in its sweepstakes solicitations to consumers. The case is currently pending in Shawnee County District Court.

***State ex rel. v. Qwest Communications Corporation and LCI International Telecom Corp., d/b/a Qwest Communications Services***

The Attorney General entered into a Consent Judgment November 21, 2000, with these companies located in Denver, Colorado for violations of the KCPA related to the “slamming” of consumers’ long distance telephone service. In the Consent Judgment, the Defendant agreed to be enjoined from future violations, and pay restitution to consumers, and pay \$175,000 in civil penalties, and \$175,000 in investigative fees.

***State ex rel. v. Mark Rank***

The Attorney General entered into a Consent Judgment with this Defendant on June 1, 2000, for accepting money from a consumer but never supplying any goods or services. The Defendant agreed to be enjoined from further violations and pay \$1,065 in restitution, \$250 in civil penalties and \$250 in investigative fees.

***State ex rel. v. Michael C. Cooper, Individually; and d/b/a Advantage International Marketing and d/b/a Renaissance Holding Corp. and d/b/a Renaissance of Nevada; Renaissance TTP, Inc. f/k/a Renaissance Designer Gallery Products Inc. d/b/a The Tax People a/k/a thetaxpeople.net and d/b/a Advantage International Marketing, Inc. a/k/a Advantage International Marketing Corporation a/k/a Advantage International Marketing; Advantage International Marketing, Inc. a/k/a Advantage International Marketing Corporation a/k/a Advantage International Marketing, a Wholly Owned Subsidiary/division of Renaissance Ttp, Inc.; and John or Jane Does 1-50***

The Attorney General filed a lawsuit on October 19, 2000, against this company located in Topeka, Kansas, for committing deceptive and unconscionable acts and practices in violation of the KCPA. The Defendants sold a home-based business tax advice package and audit protection services through a multi-level marketing plan that the Attorney General has alleged is a referral sales pyramid scheme. On October 25, 2000, the Shawnee County, Kansas, District Court entered a Temporary Injunction enjoining further promotion or sales of the Defendants’ products. The Court permitted the Defendants to continue to do limited business servicing existing “clients” of the company. A hearing on the Defendants request to set aside the TRO and the state’s request for entry of a Temporary Injunction enjoining Defendants from conducting any business whatsoever was concluded February 27, 2000.



***State ex rel. v. David Saffell; Glen Manning and M. Mischell Saffell, d/b/a KC Meats, and KC Meats, Inc.***

The Attorney General entered into a Consent Judgment February 15, 2000, with these individuals and companies formerly operating out of Blue Springs, Missouri, for violations of the KCPA and the Food Sales & Advertising Practices Act during door-to-door solicitations and sales of meat products to Kansas consumers. In the Consent Judgment, the Defendants (whose businesses are now defunct) agreed to be enjoined from future violations.

***State ex rel. v. Reginald Scarbrough and American Chamber for the People, Inc.***

The Attorney General filed a lawsuit on October 14, 1998, against Reginald Scarbrough and the American Chamber for the People, Inc., for violations of the KCPA in solicitation of memberships and for violations of the Charitable Solicitations and Organizations Act in solicitation of donations. The Defendants made misrepresentations to consumers and donors about the beneficiaries and uses of the Defendants' receipts, failed to comply with the door-to-door sales provisions, and failed to register and comply with the Charitable Solicitations and Organizations Act. Defendants entered into a Consent Judgment on April 18, 2000, wherein they agreed to be enjoined from future violations and to pay \$2,500 in civil penalties and \$2,500 in investigative fees.

***State ex rel. v. James William Snell***

The Attorney General filed a lawsuit on February 22, 2000, against this equiteer operating out of Lawrence, Kansas for violations of the KCPA in his equity-skimming operations. The lawsuit is pending.

***State ex rel. v. Leslie Edwin Snell, Individually, and Education Management Associates, LLC; Assoc. of 21st Century Scholars; Regency University; Snell Corp. f/k/a Snell & Associates, Inc.; Assoc. of The Morning Star; Cedar Creek Publishers, LLC; Monticello University (of South Dakota); Thomas Jefferson Institute f/k/a Thomas Jefferson Memorial Education Foundation; University Associate. LLC; Monticello University (of Hawaii); Big Bear Syndicate, LLC, All d/b/a Monticello University d/b/a Monticello University of Hawaii, d/b/a Monticello Institute of Canada, d/b/a Monticello University of Canada d/b/a Monticello University of South Dakota, d/b/a Chancery House, Ltd., d/b/a International Commission For Excellence in Higher Education, d/b/a University Administration Center, d/b/a Jefferson & Madison School of Law, d/b/a Alexis De Tocqueville University of Hawaii, d/b/a University of The American Republic d/b/a Education Management Associates d/b/a Association of 21<sup>st</sup> Century Scholars, d/b/a Thomas Jefferson Commonwealth University of America, d/b/a Segmentation Services, LLC d/b/a Fall River Consultants f/d/b/a Snell, Monroe, Alexander and Kent, f/d/b/a National Council For The Accreditation of Private Universities And Schools of Law, Inc., f/d/b/a Snell & Snell, LLC f/d/b/a Thomas Jefferson University, f/d/b/a Jefferson University, and f/d/b/a Mars Hill University***

The Attorney General filed suit on May 11, 1999, against Leslie Edwin Snell and 12 corporations under his control, all doing business as Monticello University, and froze several of his bank accounts and other assets in Kansas. Allegations include numerous deceptive and unconscionable acts in connection with the school, including representations that it had authority to offer degrees when it did not, representations that it was accredited when it was not, and

representations that it had faculty and staff when it did not. Judgment was entered against Leslie Snell, individually, as well as his corporate entities, in August 2000. The judgment permanently enjoins the Defendants from operating in the State of Kansas, as well as assessing consumer restitution in the amount of \$108,022.59, civil penalties in the amount of \$1,509,200 and \$7,500 in investigative fees.

***State ex rel. v. Sunplus Credit, Inc., d/b/a National Bankcards***

The Attorney General filed a lawsuit on January 19, 2000, against Sunplus Credit, Inc., d/b/a National Bankcards, of West Palm Beach, Florida, for violations of the KCPA and the Credit Services Organizations Act. The court entered Default Judgment against the company on June 13, 2000, enjoining the company from future violations and ordering the company to pay \$15,960 restitution to consumers, \$6,840,000 in civil penalties, and \$5,000 in investigative fees.

***In the Matter of Time Inc., Entertainment Weekly Inc., Time Publishing Ventures, Inc., Time Inc., Home Entertainment, Time Life Inc., and Time Consumer Marketing, Inc., Wholly Owned Subsidiaries of Time Inc.***

The Attorney General participated in a multi-state investigation of the Defendant corporations for using deceptive sweepstakes-type promotions as inducement for consumers to buy their products. The Defendant entered into an Assurance of Voluntary Compliance or Discontinuance with the states on August 17, 2000. Terms included discontinuance of deceptive practices and maintenance of do-not-contact lists, payment of \$4,924,636 to the states for distribution to consumers and \$3,240,000 to the states for investigative and attorney's costs.

***State ex rel. v. Top Secrets, Inc., Thomas M. Michaels, and Top Secrets, Inc. d/b/a Secret Source***

The Attorney General filed a lawsuit on August 24, 2000, against this company and individual out of Junction City, Kansas, for operation of a multi-level marketing plan that the Attorney General has alleged is a referral sales pyramid scheme in violation of K.S.A. 50-626(b)(1)(E) of the KCPA. The company has filed for bankruptcy protection under Chapter 7 of the United States Bankruptcy Code. The individual Defendant has not yet filed bankruptcy. The case is pending in the Geary County, Kansas, District Court. A parallel criminal investigation by the Office of the Attorney General in cooperation with the United States Postal Inspection Service is ongoing.

***State ex rel. v. TSI Service Corp d/b/a TSI Services***

The Attorney General filed a lawsuit on April 10, 2000, against this company out of Toronto, Ontario, Canada (with offices also in Buffalo, New York) for violations of the KCPA and the Credit Services Organizations Act. The court entered a Journal Entry of Default Judgment on August 3, 2000, enjoining the company from future violations and ordering the company to pay \$32,238 in restitution to consumers, \$4,860,000 in civil penalties, and \$5,000 in investigative fees.

***State ex rel. v. U-haul International, Inc., et al.***

We filed suit on January 14, 1999, against U-Haul International and U-Haul Co. of Kansas for violations of the KCPA relating to "Guaranteed Reservations." Consumers pay \$80 to guarantee a specific reservation; however, when they arrive to pick up the truck or trailer they are routinely told

that the equipment is not there and that the reservation was not guaranteed. After suit was filed, the company entered into an Assurance of Voluntary Compliance on March 6, 2000, whereby it agreed to pay \$656.94 in consumer restitution, \$5000 in investigative fees and \$5000 in civil penalties.

***In the Matter of US Sales d/b/a United States Purchasing Exchange (USPE)***

The Attorney General participated in a multi-state investigation of this company for using deceptive sweepstakes promotions to induce consumers to purchase merchandise. An Assurance of Voluntary Compliance or Discontinuance was agreed to on April 3, 2000. Terms included discontinuance of the questionable practices as well as partial refunds of over \$30 Million to consumers.

**US Bank National Association ND f/k/a First Bank of South Dakota (National Association),  
US Bancorp Insurance Services, Inc. and US Bancorp f/k/a First Bank System Inc.**

The Attorney General entered into a multi-state Amended Final Judgment and Order for Injunctive and Consumer Relief and Amended Stipulation of Settlement on September 22, 2000, with these companies for violations of 15 U.S.C. §1681 and various pendant state law claims involving improper sharing of private customer data with affiliated entities and unaffiliated third parties. The case had originally been brought in the U.S. District Court for the District of Minnesota by the Minnesota Attorney General. The Defendants agreed to be enjoined from future violations, to pay restitution to consumers, and to pay \$500,000 to the state of Minnesota, \$1.5 million to Minnesota-based chapters of Habitat for Humanity, and \$2 million in the aggregate to the Offices of the Attorneys General of 27 states for attorneys' fees and investigative costs or for consumer education, litigation, public protection or local consumer aid funds, or any other purpose authorized by state law at the discretion of each such state. Kansas' pro-rata share was \$68,965.

***State ex rel. v. Christopher L. Valentine, d/b/a National Air Defense Systems***

The Attorney General entered into a Consent Judgment on August 3, 2000, with this business operating out of Salina, Kansas, for violations of the KCPA in its solicitations delivered to Kansas consumers for its vacuum sweeper advertising. The company agreed to be enjoined from future violations, and pay \$1,500 in civil penalties and \$1,500 in investigative fees.

***State ex rel. v. Valley Nathan Herrin d/b/a Herrin Construction***

The Attorney General entered into a Consent Judgment on November 6, 2000, with Valley Nathan Herrin d/b/a Herrin Construction of Edmond, Oklahoma, for violations of the KCPA in his door-to-door solicitations and sales of asphalt paving services to Kansas Consumers. In the Consent Judgment, the Defendant agreed to be enjoined from future violations, and pay \$1,500 in civil penalties, and \$1,500 in investigative fees.

***In the Matter of Vodafone Airtouch Licenses, LLC., Topeka Cellular Telephone Company, Inc.,  
and St. Joseph Celltelco, All d/b/a Verizon Wireless***

The Attorney General entered into an Assurance of Voluntary Compliance with these companies located in Kansas for violations of the KCPA related to the sale of cellular phones and services. The Defendant agreed to refrain from future violations, and to pay \$7,500 in civil penalties and \$7,500 in investigative fees.

***State ex rel. V. Walter Zitlow, Complete Home Security, Inc., and Gary Richardson d/b/a Alarm Professional Services***

The Attorney General filed a lawsuit in Sedgwick County District Court on April 1, 1997, against this sales representative and two businesses for deceptive and unconscionable acts and practices relating to the sale of home security systems, and sought enhanced penalties for violations against the elderly. The average age of the consumers who filed complaints with this office against the Defendants was 74 years old. On February 2, 2000, the District Court entered Findings of Fact and Conclusions of Law in favor of the State for over \$128,000 in consumer damages and \$1.3 million in civil penalties. On March 7, 2000, Defendant Walter Zitlow filed Chapter 7 bankruptcy just prior to the Judgment's being entered. After obtaining a ruling in the bankruptcy case that we were not subject to the automatic stay, the District Court signed and entered the final Journal Entry of Judgment in the underlying case on July 26, 2000. Our effort to have the judgment declared non-dischargeable in bankruptcy is pending.

***ONLINE PHARMACY SALES***

***State ex rel. and Kansas Board of Pharmacy v. Lifestyle USA, Inc., (Formerly Performance Drugs, Inc.,) d/b/a Performance Drugs, and Lifestyle USA***

The Attorney General, along with the Kansas Board of Pharmacy, filed a lawsuit against this Washington company on February 24, 1999, for the deceptive and unconscionable advertising, sale, prescribing, and dispensing of prescription-only medications over the Internet to Kansans. This lawsuit was the result of an investigation involving the Defendant's sale of Viagra and Propecia to a special agent of the Attorney General's Office. Viagra is a drug used to treat erectile dysfunction and it has potentially fatal complications and side effects. The hair loss drug Propecia can cause serious birth defects if even handled by a pregnant woman, and, therefore, requires careful patient consultation. Although these drugs require a valid prescription, the special agent had no prescription from his physician, but was charged \$75 for an "online physician consultation" with a physician not licensed in Kansas. No physician actually conferred with the special agent. Further, the Defendants did not advise the special agent of the proper administration, potential dangers, side effects, and contraindications of the drugs. The company entered into a Consent Judgement approved by the court on June 2, 2000, agreeing to refrain from future violations, and pay \$4,500 in investigative fees and \$4,500 in penalties.

***State ex rel. and Kansas Board of Pharmacy v. Roy C. Alivio, Bo Platt, Male Clinic, L.L.C., David Hairhoger, d/b/a Community Drug of Pittsburgh, Miles Jones, M.d., and Rick Williams, M.d.***

***State ex rel. and Kansas Board of Pharmacy v. Confimed.com, L.L.C., d/b/a VSource and Confimed.com, and H. Levine, M.D.***

***State ex rel. and Kansas Board of Pharmacy v. DVM Enterprises, Inc., d/b/a Cybrxpress, John S. Stiverson, a/k/a Scott Stiverson, d/b/a Stivercorp and d/b/a Online Physicians, Daniel Thompson, M.D., and Home Prescription Services, Inc.***

***State ex rel. and Kansas Board of Pharmacy v. Focus Medical Group, Inc., d/b/a Focus-medical.com, Senior Care Pharmacy, Inc., Formerly LTC Pharmacy, Inc., and Kiau Kaeuh, M.D.***

***State ex rel. v. Viapro, Inc., d/b/a Viapro, and William Clemans, M.d.***

The Attorney General, along with the Kansas Board of Pharmacy, filed five lawsuits against several physicians, pharmacies, and web-site operators on June 9, 1999. The lawsuits allege that the Defendants' actions in advertising, selling, prescribing and dispensing prescription-only medications were deceptive and unconscionable, violating the Kansas Consumer Protection Act (KCPA). These lawsuits were the result of investigations involving the sale of Viagra to a 16-year-old boy by one set of Defendants, and the sale of the controlled substance Meridia by another group of Defendants to the same boy. Special agents in the Attorney General's Office were also sold prescription drugs and controlled substances. All persons making purchases from the Defendants on behalf of the Attorney General's Office were truthful about their age and gender. Neither the minor nor the special agents involved in the investigations had valid prescriptions from their physicians. They filled out online applications and were charged as much as \$85 for a "physician consultation." No consultations actually occurred. The drugs purchased in the investigations are prohibited by law from being dispensed without a prescription. Additionally, purchasers of the drugs were required to accept an online waiver of many of their legal rights against the physicians, pharmacists, and web-site operators. Most of the drugs purchased have potentially fatal complications and side effects, yet the only instruction given in most sales regarding the proper administration, potential dangers, side effects, and contraindications of the drugs were pamphlets sent with the drugs. The State of Kansas has been granted default judgment in one case, has settled with one Defendant, has one case set for trial, and the remainder of the cases are in the discovery stage.

### ***CIVIL ENFORCEMENT OF AGENCY ACTIONS***

The Consumer Protection Division filed 10 civil enforcement of agency actions to compel compliance with subpoenas issued to suppliers:

***Alliance Service Company, Inc. (Arlington Heights, IL)***

***American Consumer Membership, Inc. (Richfield Springs, NY)***

***American First Amendment (Los Angeles, CA)***

***Consumer Data Services (Santa Barbara, CA)***

***Customer Acquisition Group, d/b/a Cardmember Services (Lakewood, CA)***

***Dwitt Distributing (Wichita, KS)***

***Dynasty Marketing (Van Nuys, CA)***

***Great Western Business Services, Inc. (Dallas, TX)***

***MBNA America (Wilmington, DE)***

***MKT Publishing (Williamsville, NY)***

## ***CONCLUSION***

The above enforcement actions taken by the Consumer Protection Division reflect the priority that the Office of the Attorney General has in protecting Kansas consumers from deceptive and unconscionable business practices. Strong, yet fair enforcement of consumer laws, combined with effective consumer education efforts, provide the level of protection to Kansas consumers mandated by the Kansas Legislature under the KCPA.

## **SUMMARY OF 2000**

### **ANTITRUST ENFORCEMENT ACTION**

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***State of Kansas ex rel. vs BMG Music, Bertelsmann Music Group Inc., Capitol Records Inc., d/b/a EMI Music Distribution, Virgin Records America Inc., Priority Records, L.L.C., MTS Inc., d/b/a Tower Records, Musicland Stores Corporation, Sony Music Entertainment, Inc., Trans World Entertainment Corporation, Universal Music Group, Inc., Universal Music & Video Distribution Corp., UMG Recordings Inc., Warner-Elektra-Atlantic Corp., Warner Music Group Inc., Warner Bros. Records Inc., Atlantic Recording Corp., Elektra Entertainment Group Inc., and Rhino Entertainment Co.***

The Attorney General, along with 41 other states and three territories filed suit in the United States District Court for the Southern District of New York on August 8, 2000, against the nation's largest distributors of recorded music and affiliated labels and various retailers for price fixing. Also charged were retail giants Musicland, which operates more than 1,300 retail outlets under the Musicland and Sam Goody trade names, Trans World, which operates more than 900 stores under the names Camelot, FYE, Music & Movies, Planet Music, Record Town, Saturday Matinee, Spec's Music, Strawberries and the Wall, and MTS Inc. (doing business as Tower Records.) The complaint further targets unnamed co-conspirators "both known and unknown" and calls for the awarding of triple damages to consumers and the assessment of civil penalties against the companies. The complaint alleges that in the early 1990's recorded music outlets such as Best Buy, Circuit City and Target began to offer stiff competition to mall-based music stores. The Defendants are charged with engaging in an unlawful scheme designed primarily to stop retail outlets from offering music at deep discounts. The suit is pending and in the discovery phase.

***State of Kansas ex rel. vs NINE WEST GROUP, INC. and John Does 1-500***

The Attorney General joined the other 49 states, the District of Columbia and all US Territories in a suit filed in United States District Court for the Southern District of New York on Monday, March 6, 2000, against Nine West Group for entering into illegal agreements with shoe retailers to fix the retail price of women's shoes between January 1988 and July 1999. The case was settled. Under the terms of the settlement the money recovered was to be distributed on a cy pres basis to fund women's health, women's educational, women's vocational, and/or women's safety programs. Kansas received a gross amount of \$292,000. The net proceeds have been distributed to Kansas Coalition Against Sexual & Domestic Violence and the twenty-seven individual members of the coalition which provide domestic violence programs or sexual assault centers.

***State of Kansas ex rel. vs Hoffmann-LaRoche, Inc., Roche Vitamins, Inc., Aventis Animal Nutrition, S.A., Aventis Animal Nutrition, Inc., Daiichi Pharmaceutical Co. Ltd., Eisai Co. Ltd, Takeda Vitamin and Food USA, and BASF Corporation***

The Attorney General, together with Attorneys General of the other 49 States, the District of Columbia, and Puerto Rico filed in a suit filed in United States District Court for the Southern District of New York on December 5, 2000, against these companies for engaging in a conspiracy to fix the prices of vitamins. This suit sought to recover damages for State Agencies for overcharges in the purchase price of vitamins or vitamin containing products. Twenty-two Kansas agencies

provided us with purchase information. The case was settled for a gross payment to the State of Kansas of \$448,438.57. The net proceeds were paid out to the State Agencies that provided purchase information.

***State of Kansas, ex rel. v. The American Optometric Association, Johnson & Johnson Vision Products, Inc. d/b/a Vistakon, Bausch & Lomb, Inc., Contact Lens and Anterior Segment Society, Inc., American Society of Contact Lens Specialists, Society of Eye Care Specialists, Eye Care Management Group, Vision Enhancement Council International, Society of Contact Lens Specialists, National Association of Contact Lens Specialists, L. Edward Elliott, John A. Gazaway, Richard Hopping, Paul Klein, James C. Leadingham, Melvin Remba, Lee Rigel, Ronald Snyder, Jack Solomon, William David Sullins, Jr., and Stanley Yamane***

The Attorney General, along with 31 other states joined in suits filed in the United States District Court for the Middle District of Florida, Jacksonville Division, in 1994, 1997, and 1998 against The American Optometric Association (AOA); Johnson & Johnson Vision Products, Inc. (Vistakon); Bausch & Lomb Inc (B&L); CIBA Vision (CIBA) and 13 individual optometrists for conspiring to restrain trade in the sale and distribution of disposable contact lenses in violation of state and federal antitrust laws. The cases have been settled but the settlements have not yet been approved by the court. The terms of the settlements vary with each of the defendants, but generally involve a claim period for contact lens purchasers to register for benefits packages including coupons for discounts on future purchases, or eye care practitioner visits, and products. Johnson & Johnson guarantees that its benefits package will have a value of \$30 million dollars and Bausch & Lomb guarantees that its benefits package will have a value of \$9.5 million dollars. In addition cash payments will be made by: Johnson & Johnson of \$25 million dollars; Bausch & Lomb \$8 million dollars; American Optometric Association \$750,000, and the individual defendants \$104,000. Claims for reimbursement of the fees and expenses including notice and other costs of the private class plaintiffs' counsel and the States will be made at the fairness hearing, and if granted the total claims will probably exhaust the cash components of the settlements.

***State of Kansas, ex rel. v. Microsoft***

The Attorney General, along with eighteen other states and the Department of Justice, filed an antitrust action against Microsoft Corporation, in the United States District Court for the District of Columbia. The suit, filed on May 18, 1998, alleged that Microsoft's conduct violated state and federal antitrust laws. In November 1999, the court found that Microsoft had violated the state and federal antitrust law and caused consumer harm by, *inter alia*, engaging in a series of actions designed to protect its monopoly power. The Court also found that Microsoft has demonstrated that it will use its prodigious market power and immense profits to harm any firm that insists on pursuing initiatives that could intensify competition against one of Microsoft's core products, and that Microsoft's past success in hurting such companies and stifling innovation deters investment in technologies and businesses that exhibit the potential to threaten Microsoft. The Court then issued an order in June 2000, which included remedies involving the reorganization of the structure of Microsoft. Microsoft appealed to the United States Court of Appeals for the District of Columbia which affirmed the findings of fact that Microsoft's conduct violated the law, but reversed and remanded the case for further proceedings and consideration of the remedy to be imposed for the illegal conduct. Those additional proceedings have not yet been scheduled.



***State of Kansas, ex rel. v. Toys "R" Us, Inc., Mattel, Inc., Hasbro, Inc.,  
Tyco Industries Inc., The Little Tikes Company, Inc.***

April 29, 1998, the Attorney General joined with Attorneys General in 43 other states, Puerto Rico and the District of Columbia in a suit against Toys "R" Us, Mattel, Inc., Hasbro, Inc., Tyco Industries, Inc., and The Little Tykes Company, Inc. on for conspiring to and for price fixing and related illegal activities. The parties reached a settlement in May 1999, which provided that Kansas be given a total of over \$344,000.00 worth of toys over a three year period and a cash payment of \$146,900. Kansas received toys in December 1999 and December 2000, which were distributed to children in Kansas foster care. The final distribution of approximately \$85,000 worth of toys will be made in December 2001. The Healthy Families program was the beneficiary of the money received.